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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/565,471

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Han-Kyo Lee

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J. C. Patents Inc.
4 Venture, Suite 250
Irvine, CA 92618

03/10/2009

EXAMINER

HELLING, KAITLYN ELIZABETH

ART UNIT

PAPER NUMBER

3739

MAIL DATE

DELIVERY MODE

03/10/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/565,471	Applicant(s) LEE, HAN-KYO	
	Examiner KAITLYN E. HELLING	Art Unit 3739	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 December 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,4-11,13 and 14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,4-11,13 and 14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 January 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The Amendment filed on December 17, 2008 has been entered. Claims 1, 4-11, 13 and 14 remain pending in the application. Claims 2-3 and 12 have been cancelled. The Objection to the drawings has been withdrawn in light of the amendment to the specification.

Claim Rejections - 35 USC § 103

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. Claims 1, 6, 7 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. 2003/0093915 A1 to Pearl et al. (Pearl) in view of U.S. 2004/0006332 A1 to Black (Black), U.S. 3,967,372 to Beck et al.(Beck) and U.S. 4,924,341 to Inagaki (Inagaki).

In Reference to Claim 1

Pearl teaches:

An alopecia healing apparatus ([003], Page 1) comprising:

a case provided at a first end thereof with a handle section, and a second end thereof with a massage section having a plurality of massage protrusions (Fig. 1);

a light radiating section including a plurality of LEDs (Abstract), which are regularly aligned behind the massage protrusions of the case (Abstract) in equidistance (Fig. 1);

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a laser radiating section (Abstract) aligned in the case corresponding to the massage section so as to radiate low-level laser beam (Fig. 1);

a control section including a microcomputer ([0072] Page 6) for controlling operations of the light radiating section, the laser radiating section and the vibration device; and

a power source for supplying power to the light radiating section and the laser radiating section (18, Fig. 1 and [0060] Page 5).

However, Pearl does not teach:

a vibration device installed in the case so as to vibrate the case and the power source providing power to the vibration device;

wherein the handle section is inclined from the massage portion at an angle of 15 degrees so as to enlarge a contact area between the massage section and a scalp;

the massage protrusions are made of soft synthetic resin in order to allow a user to feel pleasant when combing a user's hair or when massage a user's scalp

Black teaches:

a vibration device and a power source installed in the case so as to vibrate the case (Abstract);

It would have been obvious to one having ordinary skill in the art at the time of the invention to have included the vibration device of Black with the apparatus of Pearl

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since Black teaches the combination of light and vibration therapies in order to massage the body structures and improve the transparency to the light beams to provide additional or alternative massaging effects ([0006], Page 2).

However, neither Pearl nor Black teaches:

a handle section inclined from the massage section

Beck teaches:

the use of an inclination between a head assembly and the handle portion so as to make it more convenient to grasp the handle of the shaver and apply the head against the user (Col. 2, lines 35-39).

Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to have modified Pearl and Black with the inclination of the head with respect to the handle for a more convenient grasp and application to the user as taught by Beck (Col. 2, lines 35-39).

Similarly with respect to the angle being 15° , the prior art need not disclose the exact angle of inclination which will optimize the contact area of the treatment portion of an apparatus. As such, the angle 15° does not render the claim patentably distinct as this angle would result from routine experimentation.

However, neither Pearl, Black nor Beck teaches:

The use of a soft synthetic resin as the protrusion material

Inagaki teaches:

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the use of synthetic resin as a way to promote blood circulation (Col. 2, lines 50-53).

Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to have used synthetic resin for the massage protrusions for its comfortable touch to the body portions of the user because of its appropriate rigidity and flexibility (Col. 2, lines 50-53).

With respect to a power source driving the light radiating section, the laser radiating section, and the vibration device, the examiner asserts that it would have been obvious to one having ordinary skill in the art at the time of the invention to have modified Pearl, Black, Beck and Inagaki to have integrated the power motor of Pearl for the light radiating section and the laser radiating section with the power motor of Black for the vibrating section as a matter of obvious design choice since the light radiating means, laser radiating means and the vibration means all require power to be provided (see MPEP 2144.04).

In Reference to Claim 6

Pearl in view of Black, Beck and Inagaki teaches the apparatus of claim 1, with Black teaching the further limitation of the laser radiating section including a laser source (Fig. 7) installed at a rear portion of a cylindrical member and a lens section installed at a front portion of the cylindrical member (Fig. 7 and Col. 7, lines 31-44). It would have been obvious to one having ordinary skill in the art at the time of the

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invention to have selected the laser and lens configuration of Black in order to allow the light to contact the user as taught by the Black (Col. 2, lines 13-28).

In Reference to Claim 7

Pearl in view of Black, Beck and Inagaki teaches the apparatus of claim 1, with Black teaching the further limitation of the vibration device including a vibrator motor ([0006], Page 2) capable of vibrating itself. It would have been obvious to one having ordinary skill in the art at the time of the invention to have selected a motor as that mechanical means of vibration in order to provide the therapeutic effects of the vibration ([0006], Page 2).

In Reference to Claim 11

Pearl in view of Black, Beck and Inagaki teaches an alopecia healing apparatus as described above, but not a continuously repetitive cycle. Black teaches that depending on the hygienic effect sought it may be advantageous to provide for varying parameters such as pulse, repetition rate, and pulse duration (Col. 2, lines 29-57) as well as the addition of vibration (Col. 10, lines 30-53). While not specifically pointed out in Black, it would be inherent that the varying parameter settings of Black would allow for the repeatedly switching on/off the light radiating section for 30 seconds as a vibration device is operated and a second step of radiating light for 30 seconds by using the light radiating section. Therefore, it would have been obvious to one having ordinary skill in that art at the time of the invention to have modified Pearl in view of Black, Beck and Inagaki to have included the further limitation of Black of varying

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parameter of pulsing and repetition to achieve the desired treatment as taught by Black (Col.2, lines 30-53).

4. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. 2003/0093915 A1 to Pearl et al., U.S. 2004/0006332 A1 to Black, U.S. 3,967,372 to Beck et al. and U.S. 4,924,341 to Inagaki as applied to claim 1 above, and further in view of U.S. 6,739,016 B2 to Bigio (Bigio).

Pearl in view of Black, Beck and Inagaki teaches the apparatus of claim 1, but not the shape of the massage protrusions. Bigio teaches wherein the length of the massage protrusions is gradually increased from a center to upper and lower directions thereof so that uppermost and lowest protrusions have the longest length (Fig. 14, and Col. 8, lines 11-32). It would have been obvious to one having ordinary skill in the art at the time of the invention to have used the bristle configuration of Bigio with the apparatus of Pearl, Black, Beck and Inagaki to provide an anatomically correct device and promote more contact between the apparatus and the scalp (Col. 2, lines 5-12).

5. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. 2003/0093915 A1 to Pearl et al., U.S. 2004/0006332 A1 to Black, U.S. 3,967,372 to Beck et al. and U.S. 4,924,341 to Inagaki as applied to claim 1 above, and further in view of U.S. 4,732,834 to Honda et al. (Honda).

Pearl in view of Black, Beck and Inagaki teaches the apparatus of claim 1, but not the use of a light collecting section with a Cr-coated film in order to prevent the light radiating from the LEDs from being dispersed into an exterior and in order to make linear-type light. Honda, however, teaches the use of a light collecting member

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(Abstract) with a reflection preventive layer in the inside (Abstract), and the use of a chromium coating (Col. 9, lines 66-68 and Col. 10, lines 1-2). It would have been obvious to one having ordinary skill in the art at the time of the invention to have modified Pearl, Black, Beck and Inagaki with the light collecting section of Honda in order to reduce the occurrence of interference fringe due to the interference phenomenon (Abstract).

6. Claim 8 rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. 2003/0093915 A1 to Pearl et al., U.S. 2004/0006332 A1 to Black, U.S. 3,967,372 to Beck et al. and U.S. 4,924,341 to Inagaki as applied to claim 1 above, and further in view of U.S. 3,938,018 to Dahl (Dahl).

Pearl in view of Black, Beck and Inagaki teaches the apparatus of claim 1, but not the use of the specific power source. Dahl, however, teaches the use of a chargeable battery (Abstract), a charge terminal formed at a lower end of the case (Col. 3, lines 30-34), and an adapter to charge the battery by receiving the case therein (Fig. 2). It would have been obvious to one having ordinary skill in the art at the time of the invention to have modified Pearl, Black, Beck and Inagaki with the charging system of Dahl in order to facilitate automatic charging without the user having to worry about plugging or unplugging various connections as taught by Dahl (Col. 1, lines 33-45).

7. Claims 9, 10, 13 and 14 rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. 2003/0093915 A1 to Pearl et al., U.S. 2004/0006332 A1 to Black, U.S. 3,967,372 to Beck et al. and U.S. 4,924,341 to Inagaki as applied to claims 1 and 6 above, and further in view of U.S. 6,450,941 to Larsen (Larsen).

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In Reference to Claims 9 and 10

Pearl in view of Black, Beck and Inagaki teaches the apparatus of claim 1, but not the specific lasers being a He-Ne laser with a wavelength about 630-660nm or a Ga-As laser with a wavelength of about 790-904nm. Larsen, however, teaches the laser to have a wavelength between 350 and 1200nm (Abstract) and more specifically in the infrared light range of 600-1200nm as this has been discovered to be capable of stimulating the mitochondria while at the same time possessing a sufficient penetration depth (Col. 1, lines 49-51).

Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to have used a laser within the wavelength range of Larsen to achieve the therapeutic benefit of stimulation and adequate penetration. Similarly, while Larsen does not teach the He-Ne or Ga-As lasers specifically, it would have been obvious to one having ordinary skill in the art at the time of the invention to have selected a laser on the basis of its suitability for the intended use as a matter of obvious design choice (See MPEP 2144).

In Reference to Claims 13 and 14

Pearl in view of Black, Beck and Inagaki teaches the apparatus of claim 6, but not the specific lasers being a He-Ne laser with a wavelength about 630-660nm or a Ga-As laser with a wavelength of about 790-904nm. Larsen, however, teaches the laser to have a wavelength between 350 and 1200nm (Abstract) and more specifically in the infrared light range of 600-1200nm as this has been discovered to be capable of

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stimulating the mitochondria while at the same time possessing a sufficient penetration depth (Col. 1, lines 49-51).

Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to have used a laser within the wavelength range of Larsen to achieve the therapeutic benefit of stimulation and adequate penetration. Similarly, while Larsen does not teach the He-Ne or Ga-As lasers specifically, it would have been obvious to one having ordinary skill in the art at the time of the invention to have selected a laser on the basis of its suitability for the intended use as a matter of obvious design choice (See MPEP 2144).

Response to Arguments

Applicant's arguments filed December 17, 2008 have been fully considered but they are not persuasive.

With respect to applicant's argument concerning the use of Inagaki for the disclosure of the use of synthetic resin, the examiner maintains her position that the Inagaki reference is valid. First, applicant does not claim that the resin is in direct contact with the human body or that the specific texture of the synthetic resin is of any consequence. Second, Inagaki teaches that the use of synthetic resin will contribute to the comfort of the user when in contact with the resin.

With respect to applicant's argument that the resin in Inagaki is a passive component while applicant's is mechanically connected to a vibration device, the examiner maintains her position. The resin of Inagaki is being used to teach that the synthetic resin is chosen for its material properties with respect to comfort when

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contacting a person. Therefore, the fact that the resin of Inagaki is not mechanically connected to a vibration device is of no consequence. Inagaki shows the advantages of the material properties including comfort, flexibility and increased blood circulation when combined with contact to the human body. The reference need not have the vibration device to teach the advantages of using the synthetic resin.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to KAITLYN E. HELLING whose telephone number is (571)270-5845. The examiner can normally be reached on Monday - Friday 7:30 a.m. to 5:00 p.m. EDT.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda C.M. Dvorak can be reached on (571)272-4764. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

10. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/KAITLYN E HELLING/
Examiner, Art Unit 3739

/Roy D. Gibson/
Primary Examiner, Art Unit 3739